



PROGRESSIVE CLUB
OF STINSON BEACH

POST OFFICE BOX 6 • STINSON BEACH
CALIFORNIA • 94970

FIRST FALL MEETING - 1969

Where: Community Center
When: 8:00 p.m.
Date: Friday - October 24

AGENDA

Major Item: THE MESS WE'RE IN: Litter in the Streets and
Weekend Traffic Congestion

These problems will be explored by guests
from agencies having responsibility in these
areas -

California Highway Patrol
County Sheriff's Department
California Division of Highways
County Public Works Department

Minor Items: Cable TV for Stinson Beach? Response to inquiry
from Board of Supervisors.

Status report on proposed park and recreation
area to meet local needs.

Appoint nominations committee.

The meeting is open to the public; everyone is welcome.

and best interests of the community in which the said institution, home, boarding house or place is kept. (Ord. 259 § 2; March 14, 1938).

5.24.030 Register required to be kept. Every person so licensed must keep a register wherein he shall enter the names, addresses and ages of the children, and the names and residences of their parents, so far as is known to him, and the time of the reception and discharge of such children and the reasons therefor; within twenty-four hours after any child or children is or are received at the said institution, home, boarding house or place, the said person operating the same shall cause a correct copy of the register relating to such child or children to be sent to the county probation officer. (Ord. 259 § 3; March 14, 1938).

5.24.040 School required. No license shall be issued hereunder to any person for the operation and conducting of an institution, boarding house or home for delinquent wards of the juvenile court of the county of Marin or of any other county or city and county, unless there is conducted in connection with said institution, boarding house or home and as a part thereof, a duly aproved and accredited school wherein the said children so boarded may be adequately educated in compliance with the laws of the state of California and without the necessity of their attending public schools. (Ord. 259 § 4; March 14, 1938).

5.24.050 Delinquent ward defined. The term "delinquent ward" as used in Section 5.24.040, is hereby defined as meaning any minor person or persons who have become wards of any juvenile court by virtue and because of their own violation of law or other misconduct. (Ord. 259 § 5; March 14, 1938).

Chapter 5.28

COMMUNITY ANTENNA TELEVISION AND RADIO SYSTEMS

Sections:

- 5.28.010 Definitions.
- 5.28.020 Use of telephone facilities.
- 5.28.030 License.
- 5.28.040 Uses permitted by license.
- 5.28.050 Subscriber rates and charges.
- 5.28.060 Duration, termination and forfeiture.
- 5.28.070 License payments.
- 5.28.080 Financial statement and inspection.
- 5.28.090 Public use priority.
- 5.28.100 Transfer and assignment.
- 5.28.110 Other laws and pole agreements.
- 5.28.120 Supersession.
- 5.28.130 Termination expense.

- 5.28.140 Eminent domain.
- 5.28.150 Additional requirements.
- 5.28.160 Disputes.
- 5.28.170 Permits, installation and service.
- 5.28.180 Locations, construction and undergrounding.
- 5.28.190 Removal and abandonment of property of licensee.
- 5.28.200 Changes required by public improvements.
- 5.28.210 Failure to perform street work.
- 5.28.220 Bond.
- 5.28.230 Indemnification of county.
- 5.28.240 Inspection of property and records.
- 5.28.250 Operational standards.
- 5.28.260 Complaints.
- 5.28.270 Office in county.
- 5.28.280 Service to subscriber.
- 5.28.290 Subscriber contract.
- 5.28.300 Application fee.
- 5.28.310 Application requirements.
- 5.28.320 Approval of application.
- 5.28.330 License condition.
- 5.28.340 License renewal.
- 5.28.350 Effective date of license.
- 5.28.360 Acceptance of license.
- 5.28.370 Prohibitions.
- 5.28.380 Exceptions.
- 5.28.390 Unauthorized connections and tampering.
- 5.28.400 Sale of television receivers.
- 5.28.410 Other jurisdictions.
- 5.28.420 Copyrights.

5.28.010 Definitions. Unless otherwise indicated in this chapter, the following terms have the following meanings:

- (a) "Board" means the Marin County board of supervisors.
- (b) "CATV" means "community antenna television system" which is defined as a system of antenna, coaxial, cables, wires, wave guides, or other conductors, equipment or facilities designed, constructed or used for the purpose of providing television or FM radio service by cable or through its facilities as herein contemplated.
- (c) "Gross annual receipts" means any and all compensation and other consideration in any form whatever and any contributing grant or subsidy received directly or indirectly by a licensee from subscribers or users in payment for television or FM radio signals or service, excluding installation and line extension charges, received within the county.

Gross annual receipts shall not include any taxes on services furnished by the licensee imposed directly on any subscriber or user by any

governmental unit and collected by the licensee for such governmental unit.

(d) "Service area" means the unincorporated area of this county in which a licensee is authorized, pursuant to this chapter, to construct, maintain and operate a CATV system. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.020 Use of telephone facilities. When and in the event the grantee of any license granted hereunder uses in his CATV system distribution channels furnished to the grantee by a telephone company pursuant to tariff or contract on file with the Public Utilities Commission of the state of California and the grantee makes no use of the streets independent of such telephone company furnished facilities, the grantee shall be required to comply with all of the provisions hereof as a "licensee" and in such event whenever the term "grantee" is used herein it shall be deemed to mean and include "licensee." No provision of this chapter shall be deemed or construed as requiring the granting of a franchise hereunder to a telephone company furnishing such a channel service. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.030 License. Nonexclusive licenses to construct, operate and maintain CATV systems, within all or any portion of the unincorporated area of the county, may be granted by the board to any persons, firm or corporations who or which offer to furnish and provide such systems under and pursuant to the terms and provisions of this chapter.

No provision of this chapter shall be deemed or construed to require the granting of a license when, in the opinion of the board, it is in the public interest to restrict the number of licensees or to refuse to grant any licenses for a proposed service area. Neither the granting of any nonexclusive license hereunder nor any of the provisions contained herein shall be construed to prevent the county from granting any identical, or similar, nonexclusive license to any person, firm or corporation, within all or any portion of the county. (Ord 1554 § 1 (part); November 29, 1966).

5.28.040 Uses permitted by license. Any license granted, pursuant to to the provisions of this chapter shall authorize and permit the licensee to engage in the business of operating and providing a CATV system in the county and, for that purpose, to erect, install, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any public street, where county's interest therein will support the grant of license, such facilities as may be necessary and appurtenant to the CATV system; and, in addition, to use, operate, and provide similar facilities or properties rented or leased from other persons, firms or corporations, including but not limited to any public utility or other licensee permitted to do business in the county.

The granting of a license pursuant to this chapter shall not be con-

strued as permission or license to enter on, occupy or otherwise utilize private property without the express consent of the owner or occupant thereof. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.050 Subscriber rates and charges. The licensee may make a reasonable charge to subscribers for installation or connection to its CATV system and a reasonable fixed monthly charge as filed and approved as herein provided. No increase in rates and charges to subscribers, as set forth in the schedule filed and approved with licensee's application, may be made without the prior approval of the board.

No license shall be construed as a permit or license to transmit any special program or event for which a separate and distinct charge is made to the subscriber in the manner commonly known and referred to as "pay television", and no licensee shall directly or indirectly install, maintain or operate on any television set a coin box or any other device or means for collection of money for individual programs. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.060 Duration, termination and forfeiture. No license granted by the board shall be for a term longer than twenty years following the date of acceptance of such license by the licensee or the renewal thereof.

Any neglect, failure or refusal to comply with any of the terms or conditions of this chapter, including changes or additions thereto during the term of a license by a licensee, following thirty days notice thereof by the county, shall work a forfeiture thereof in addition to such other penalties and rights provided in this chapter; and the board may, after a public hearing thereon, declare the license forfeited, and may exclude the licensee from further use or acts thereunder, and thereupon, the licensee shall be deemed to have immediately and automatically surrendered all rights hereunder. The licensee shall remove its equipment from the streets within this county within sixty days after receipt of notice of the board's declaration that his license has been forfeited. Notice may be given and will be deemed received for the purpose of this section when deposited in the mails, addressed to the licensee at the address contained in his application for a license. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.070 License payments. Any licensee granted a license under this chapter shall pay to the county, during the term of such license, a sum equal to two percent of the gross annual receipts of the licensee derived from the service area for which the license is issued. Such payment by the licensee to the county shall be made annually. In addition, county shall, upon request, receive CATV reception service from licensee during the term of the license without charges other than installation, repair and maintenance. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.080 Financial statement and inspection. The licensee shall file

with the county, within ninety days after the expiration of any fiscal year or portion thereof during which such license is in force, a financial statement prepared by a certified public accountant showing, in detail, licensee's gross annual receipts as specified herein, during the preceding fiscal year or portion thereof. It shall be the duty of the licensee to pay to the county, within fifteen days after the time for filing such statements, the sum hereinabove prescribed or any unpaid balance thereof covered by such statements. The county shall have the right to inspect the licensee's records from which said gross receipts are computed. Acceptance of any payment shall not be construed as a release or as an accord and satisfaction of any claim the county may have for further or additional sums payable under this chapter, or for the performance of any other obligation hereunder. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.090 Public use priority. No privilege or exemption is granted or conferred by any license granted under this chapter except those specifically prescribed in this chapter. Any privilege claimed under a license granted pursuant to this chapter in any street shall be subordinate to any prior or subsequent lawful occupancy of the street for public purposes. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.100 Transfer and assignment. A licensee shall not sell, transfer, lease, dispose of, or assign its license or rights thereunder, including any beneficial interest or right to operate thereunder, by voluntary sale, merger, consolidation, or otherwise, without the prior written consent of the board pursuant to such conditions as may therein be prescribed, and then only by a duly executed instrument, filed with the board. The consent will not be unreasonably withheld. The provisions of this chapter shall inure to and be binding upon any assignee who must agree in writing to comply with all of the provisions. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.110 Other laws and pole agreements. Any license granted pursuant to this chapter is subject to all provisions, regulations and conditions prescribed by any law heretofore and hereafter enacted or established during the term of any license granted. Nothing contained herein shall excuse the licensee from securing any permit required by Title 13 of this code. Any such license granted shall not relieve the licensee of any obligation involved in obtaining pole space from any department of the county, utility company, or from others maintaining poles in streets. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.120 Supersession. Any license granted under this chapter is in lieu of any and all other rights, privileges, powers, immunities, and authorities owned, possessed, controlled, or exercisable by licensee, or any successor to any interest of licensee, of or pertaining to the construction, operation, or maintenance of any CATV system in the unincorporated area of this county, and the acceptance of any license hereunder shall operate,

5.28.130—5.28.160 BUSINESS REGULATIONS AND LICENSES

as between licensee and the county, as an abandonment of any and all such rights, privileges, powers, immunities, and authorities within the county, to the effect that, as between licensee and the county, any and all construction, operation and maintenance of any licensee of any CATV system in the county shall be, and shall be deemed and construed in all instances and respects to be, under and pursuant to said license, and not under or pursuant to any other right, privilege, power, immunity, or authority whatsoever. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.130 Termination expense. The licensee shall have no recourse whatsoever against the county, its officers or employees, for any loss, cost, expense, or damage arising out of any provision or requirement of this chapter or of any license issued hereunder or because of its enforcement or for the termination or forfeiture of any license as provided in this chapter. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.140 Eminent domain. Nothing in this chapter shall, in any way or to any extent, impair or affect the right of the county to acquire licensee's property either by purchase or through exercise of the right of eminent domain, and nothing herein shall be construed to modify or abridge the county's right of eminent domain with respect to any licensee. Nor shall any license issued hereunder be given any value before any court or public authority in any proceeding of any character except for the purpose of taxation. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.150 Additional requirements. During the term of any license, the county may amend any section or part of this chapter so as to require additional or greater standards of construction, operation, maintenance or otherwise, on the part of the licensee, including the payment of a larger or greater percentage of the gross annual receipts of any licensee for the remaining terms of such license. If this chapter is amended to require additional or greater standards, the licensee within ninety days after the effective date of such amendment shall comply with the new standards.

Prior to adoption of such amendments, the board shall conduct a public hearing thereon. Notice thereof shall be given to all licensees by registered mail directed to each licensee at the address specified on the license application and by publication in a newspaper of general circulation once, not less than ten days prior to said hearing, provided, however, that unintentional failure to give such notice shall not affect the validity of any amendments adopted by the board. The hearing may be continued from time-to-time, and the board may direct the department of public works to investigate and conduct collateral hearings on technical aspects of the proposed amendments, as it deems appropriate. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.160 Disputes. The board may do all things necessary and con-

venient in the exercise of its jurisdiction under this chapter and may determine any question of fact which may arise during the existence of any license granted hereunder. The board may adjust, settle or compromise any controversy or cancel any charge arising from the operations of any licensee or from any provision of this chapter. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.170 Permits, installation and service. (a) Within thirty days after acceptance of any license the licensee shall proceed, with due diligence, to obtain all necessary permits and authorizations which are required in the conduct of its business, including, but not limited to, any utility joint use attachment agreements, microwave carrier licenses, zoning approval and any other permits, licenses and authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of CATV systems, or their associated microwave transmission facilities.

(b) Within ninety days after obtaining all necessary permits, licenses and authorizations, licensee shall commence construction and installation of the CATV system.

(c) Within ninety days after the commencement of construction and installation of the system, licensee shall proceed to render service to subscribers, and the completion of the construction and installation shall be pursued with reasonable diligence thereafter, so that service to all areas designated in the license, shall be provided within one year from commencement of construction.

(d) Failure on the part of the licensee to commence and diligently pursue each of the foregoing requirements and to complete each of the matters set forth herein, shall be grounds for termination of such license. The board, in its discretion, may extend the time for the commencement and completion of construction and installation. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.180 Locations, construction and undergrounding. (a) Any poles, wires, cable lines, conduits or other properties of the licensee to be installed in streets, shall be installed only at such locations and in such manner as shall be approved by the director of public works and shall conform to all applicable laws including the Chapter 13.12 of this code.

(b) The licensee shall not install or erect any facilities or apparatus in or on other public property, places or right-of-way, or within any privately owned area within the county which has not yet become a public street but is designated or delineated as a proposed public street on any tentative subdivision map approved by the county except those installed or erected upon existing or future public utility facilities, without obtaining the prior written approval of the director of public works and the owner of the property involved.

(c) In those areas and portions of the county where the transmission

or distribution facilities of the public utility providing telephone service and those of the utility providing electric service are undergrounded or are subsequently placed underground, then the licensee, immediately upon written instruction by the director of public works, shall construct or reconstruct, operate, relocate and maintain all of its transmission and distribution facilities underground. For the purposes of this subsection, "underground" shall include a partial underground system, e.g., streamlining. Amplifiers in licensee's transmission and distribution lines may be in appropriate housings upon the surface of the ground as approved by the director of public works. The county shall not, in any manner, be responsible for costs incurred by a licensee in placing its facilities underground pursuant to this section.

(d) No poles of any type shall be installed or constructed in connection with said facilities without the prior written consent of the board of supervisors. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.190 Removal and abandonment of property of licensee. (a) In the event that the use of any part of the CATV system is discontinued for any reason for a continuous period of twelve months, or in the event such system or property has been installed in any street or public place without complying with the requirements of this chapter, or the license has been terminated, cancelled or has expired, the licensee shall promptly, upon being given ten days notice, remove from the streets or public places all such property and poles of such system other than any which the director of public works may permit to be abandoned in place. In the event of such removal, the licensee shall promptly restore the street or other area from which such property has been removed to a condition satisfactory to the director of public works.

(b) Any property of the licensee remaining in place sixty days after the termination, forfeiture or expiration of the license shall be considered permanently abandoned. The director of public works may extend such time not to exceed an additional thirty days.

(c) Any property of the licensee to be abandoned in place shall be abandoned in such a manner as the director of public works shall prescribe. Subject to the provisions of any utility joint use attachment agreement, upon permanent abandonment of the property of the licensee in place, the property shall become that of the county and the licensee shall submit to the director of public works an instrument in writing, to be approved by the county counsel, transferring to the county the ownership of such property. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.200 Changes required by public improvements. The licensee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from the street or other public place, any property of the licensee when required by the director of public works by reason of traffic conditions, public safety, street vaca-

tion, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other type of structures or improvements by public agencies; provided, however, that the licensee shall in all such cases have the privileges and be subject to the obligations to abandon any property of the licensee in place, as provided in this chapter. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.210 Failure to perform street work. Upon failure of the licensee to commence, pursue, or complete any work required by law or by the provisions of this chapter or by its license to be done in any street or other public place, within the time prescribed, and to the satisfaction of the director of public works, the director of public works may, at his option, cause such work to be done and the licensee shall pay to the county the cost thereof in the itemized amounts reported by the director of public works to the licensee within thirty days after receipt of such itemized report.

The licensee shall at its expense install and maintain adequate shielding, filtering and grounding at affected installations within the CATV system to eliminate television interference from fundamental frequency overload by radio amateur transmissions which are in compliance with federal communications regulations. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.220 Bond. The licensee shall, concurrently with the filing of an acceptance of award of any license granted under this chapter, file with the county clerk and at all times thereafter maintain in full force and effect for the term of such license or any renewal thereof, at licensee's sole expense, a corporate surety bond in a company and a form approved by the county counsel, in the amount of five thousand dollars renewable annually, providing, in essence, that if licensee shall fail to comply with any one or more of the provisions of this chapter, or of any license issued hereunder, there shall be recoverable jointly and severally from the principal and surety of such bond any damage or loss suffered by the county as a result thereof, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the licensee as prescribed hereby which may be in default, plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond; said condition shall be a continuing obligation for the duration of such license and any renewal thereof and thereafter until the licensee has liquidated all of its obligations with the county that may have arisen from the acceptance of the license or removal by the licensee or from its exercise of any privilege therein granted. The bond shall provide that thirty days prior written notice of intention not to renew, cancellation, or material change, be given to the county.

Neither the provisions of this section, nor any bond accepted by the

county pursuant hereto, nor any damages recovered by the county thereunder, shall be construed to excuse faithful performance by the licensee or limit the liability of the licensee under any license issued hereunder or for damages, either to the full amount of the bond or otherwise. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.230 Indemnification of county. (a) **Liability Insurance:** The licensee shall, concurrently with the filing of an acceptance of award of any license granted under this chapter, furnish to the county and file with the county clerk, and at all times during the existence of any license granted hereunder, maintain in full force and effect, at its own cost and expense, a liability insurance policy in the amount of five hundred thousand dollars, and in a form satisfactory to the county counsel indemnifying and saving harmless the county, its officers and employees from and against any and all claims, demands, actions, suits, and proceedings by others, against all liability to others, including but not limited to any liability for damages by reason of or arising out of any failure by the licensee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the licensee's CATV system and against any loss, cost, expense and damage resulting therefrom, including reasonable attorney's fees, arising out of the exercise or enjoyment of its license irrespective of the amount of the comprehensive liability insurance policy required hereunder. This insurance provision may be satisfied by proper endorsement to the comprehensive liability insurance policy required by subsection (b) of this section. In the event licensee is unable to secure such insurance, county may, in lieu thereof, accept an appropriate agreement of indemnification.

(b) **Comprehensive Liability Insurance:** The licensee shall, concurrently with the filing of an acceptance of award of any license granted under this chapter, furnish to the county and file with county clerk and at all times during the existence of any license granted hereunder, maintain in full force and effect, at its own cost and expense, a general comprehensive liability insurance policy, in protection of the county, its officers, boards, commissions, agents and employees, in a form satisfactory to the county counsel, protecting the county and all persons against liability, for loss or damage for personal injury, death, property damage, and inverse condemnation, or any combination of these, and regardless of whether or not such liability, claim or damage was unforeseeable at any time before the county approved plans for the installation of license property or after the installation of license property, occasioned by the operations of licensee under such license with minimum liability limits of three hundred thousand dollars for personal injury or death of any one person and five hundred thousand dollars for personal injury or death of two or more persons in any one occurrence, and fifty thousand dollars for damage to property resulting from any one occurrence.

(c) Additional Insured, Cancellation: The policies or certificates of insurance representing such policies mentioned in the foregoing paragraph shall name the county, its officers, boards, commissions, agents and employees, as additional insured and shall contain a provision that a written notice of cancellation or reduction in coverage of the policy shall be delivered to the county ten days in advance of the effective date thereof; if such insurance is provided by a policy which also covers licensees or any other entity or person other than those above named, then such policy shall contain the standard cross-liability endorsement. The promise and agreement in this section is not conditioned or dependent on whether or not the county has approved any plan(s) or specification(s) in connection with this license, or has insurance or other indemnification covering any of these matters.

(d) By accepting a license, the licensee agrees to save and hold harmless as set forth in this section the county, its officers, boards, commissions, agents and employees from any and all claims, costs, demands, causes of action, suits, loss, expenses, or other detriment or liability arising from or out of the operations of the licensee from any cause whatsoever including inverse condemnation and in addition to and not in lieu of the surety bond and liability insurance. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.240 Inspection of property and records. (a) At all reasonable times, the licensee shall permit any duly authorized representative of the county examine all property of the licensee, together with any appurtenant property of the licensee situated within or without the county, and to examine and transcribe any and all maps and other records kept or maintained by the licensee or under its control which deal with the operations, affairs, transactions or property of the licensee with respect to its license. If any such maps or records are not kept in the county, or upon reasonable request made available in the county, and if the board shall determine that an examination thereof is necessary or appropriate, then all travel and maintenance expense necessarily incurred in making such examination shall be paid by the licensee.

(b) The licensee shall prepare and furnish to the director of public works at the times and in the form prescribed by said officer, such reports with respect to its operations, affairs, transactions or property, as may be reasonable, necessary, or appropriate to the performance of any of the rights, functions, or duties of the county or any of its officers in connection with the license.

(c) The licensee shall at all times make and keep in the county full and complete plans and records showing the exact location of all CATV system equipment installed or in use in streets and other public places in the county.

5.28.250—5.28.260 BUSINESS REGULATIONS AND LICENSES

(d) The licensee shall file with the director of public works, upon his demand, a current map or set of maps drawn to scale, showing the location of all CATV system equipment installed and in place in licensee's service area and such other information as the department of public works may specify.

(e) When any portion of the CATV system is to be installed on public utility poles and facilities, certified copies of the agreements for such joint use of poles and facilities shall be filed with the director of public works. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.250 Operational standards. The CATV system shall be installed and maintained in accordance with the highest and best accepted standards of the industry to the effect that subscribers shall receive the highest possible level of service. In determining the satisfactory extent of such standards the following among others shall be considered:

(a) The system should be installed using all band equipment capable of passing the entire VHF and FM spectrum, and it must have the capability of converting UHF for distribution to subscribers on the VHF band.

(b) The system as installed, must be capable of passing standard color TV signals without the introduction of material degradation on color fidelity and intelligibility.

(c) The system and all equipment must be designed and rated for twenty-four hour per day continuous operation.

(d) The system must provide a nominal signal level of two thousand microvolts, measured across three hundred ohms, at the input terminals of each TV receiver.

(e) The system signal-to-noise ratio must be not less than forty decibels.

(f) Hum modulation of the picture signal shall be less than five percent.

(g) That the system shall employ components having a VSWR of 1.4 or less.

(h) The system shall provide, on a continuous equal basis, all available TV and FM radio channels to the extent allowed by applicable law and regulations. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.260 Complaints. The licensee may be required to reimburse county for costs incurred by county in investigating subscriber complaints. Reimbursements shall be made to the department of public works and shall be deposited in the general fund of the county. Failure to make reimbursement within sixty days of date of billing shall constitute grounds for recovery of the total amount due from the performance bond specified in Section 5.28.220. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.270 Office in county. The licensee shall maintain an office within the county or at a location which subscribers may call without incurring added message or toll charges so that CATV maintenance service shall be promptly available to subscribers. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.280 Service to subscriber. No person, firm or corporation in the existing service area of the grantee shall be arbitrarily refused service; provided, however, that the licensee shall not be required to provide service to any subscriber who does not pay the applicable connection fee or monthly service charge. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.290 Subscriber contract. Before providing antenna service to any subscriber, the licensee shall obtain a signed contract from the subscriber containing a provision substantially as follows:

Subscriber understands that in providing antenna service (licensee) is making use of public rights-of-way within the county and that the continued use of these public rights-of-way is in no way guaranteed. In the event the continued use of such rights-of-way is denied to (licensee) for any reason, (licensee) will make every reasonable effort to provide service over alternate routes. Subscriber agrees he will make no claim nor undertake any action against the county, its officers or its employees, if the service to be provided by (licensee) hereunder is interrupted or discontinued.

The form of the licensee's contract with its subscribers shall be subject to approval of the county. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.300 Application fee. An application for a license hereunder shall be in writing and accompanied by a payment to the county of two hundred fifty dollars to reimburse it for expenses incurred in connection with processing the application. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.310 Application requirements. The application shall be submitted on a form prescribed by the board which shall contain such information as the board deems necessary to determine whether the requested license should be granted. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.320 Approval of application. Upon consideration of any application, the board may refuse to grant the requested license or the board may, by resolution, grant a license for a CATV system to any such applicant as may appear from said application to be, in its opinion, qualified to render proper and efficient CATV service to television viewers and subscribers in the proposed service area. The board's decision in the matter shall be final. If favorably considered the application submitted shall constitute and form part of the license as granted. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.330 License condition. Any license granted pursuant to this chapter shall include the following condition:

"The CATV system herein licensed shall be used and operated solely and exclusively for the purpose expressly authorized by ordinance of the county of Marin and no other purpose whatsoever."

Inclusion of the foregoing statement in any such license shall not be deemed to limit the authority of the county to include any other reasonable condition, limitation or restriction which it may deem necessary to impose in connection with such license pursuant to the authority conferred by this chapter. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.340 License renewal. Any license granted under this chapter is renewable upon the application of the licensee, in the same manner and upon the same terms and conditions as required herein for obtaining the original license, except those which are by their terms expressly inapplicable; provided, however, that the board may at its option waive compliance with any or all of the requirements of Section 5.28.300 hereof. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.350 Effective date of license. No license granted pursuant to the provisions of this chapter shall become effective unless and until all things required by Chapter 5.28 are done and completed, all of such things being hereby declared to be conditions precedent to the effectiveness of any such license granted hereunder. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.360 Acceptance of license. Within thirty days after the date of the resolution awarding a license or within such extended period of time as the board in its discretion may authorize, the licensee shall file with the county clerk his written acceptance, in form satisfactory to the county counsel, of the license, together with the bond and insurance policies, and his agreement to be bound by and to comply with and to do all things required of him by the provisions of this chapter and the license. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.370 Prohibitions. No person, firm or corporation shall establish, operate or carry on the business of distributing to any persons in this county any television signals or radio signals by means of a CATV system unless a license therefor has first been obtained pursuant to the provisions of this chapter, and unless such license is in full force and effect. No person, firm or corporation shall construct, install or maintain within any street in the county, or within any other public property of the county, or within a privately owned area within the county which has not yet become a public street but is designated or delineated as a proposed public street on any tentative subdivision map approved by the county, any equipment or facilities for distributing any television signals or radio

signals through a CATV system, unless a license authorizing such use of the street or property or area has first been obtained pursuant to the provisions of this chapter, and unless the license is in full force and effect. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.380 Exceptions. The board may, upon the filing of an appropriate request therefor, except CATV systems from the operation of this chapter, if the board finds and determines that:

- (1) The system is operated for the benefit of a limited group of individuals within a specified area;
- (2) The system is maintained solely for the convenience of said group;
- (3) Is not available to the general public; and
- (4) Is not operated for profit. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.390 Unauthorized connections and tampering. No person, firm or corporation shall make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a licensed CATV system within the unincorporated area of this county for the purpose of taking or receiving television signals, radio signals, pictures, programs, or sound. No person, without the consent of the owner, shall tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.400 Sale of television receivers. The licensee, or any of his employees during their course of employment, shall not engage in the business of selling or leasing television or other receivers which make use of signals transmitted by its system, nor shall the licensee or any of his employees during the course of their employment engage in the repair of receivers, the sale of parts therefor, or make recommendations to subscribers regarding patronage of firms engaged in such activities.

This prohibition shall not apply to any CATV operator presently engaged in the sale and repair of television receivers provided:

- (1) The operator files sufficient evidence of such fact with the clerk of the board of supervisors not later than ninety days after effective date of this section, and
- (2) He agrees to divest himself of such an interest within five years from date of filing. (Ord. 1554 § 1 (part); November 29, 1966).

5.28.410 Other jurisdictions. Whenever any portion of the territory covered by this license shall be annexed to, or otherwise become a part of any municipal corporation or of any other county, or any other agency or political subdivision of the state of California, the county's rights hereunder shall inure to the benefit of the other public body and its appropriate officers. (Ord. 1544 § 1 (part); November 29, 1966).

5.28.420 Copyrights. Any authority granted hereunder is not and shall not be in derogation of any copyright or other private proprietary interest in any material in the program content of the television signals which shall be delivered by the license, and is hereby granted, without prejudice to any right of the owner, of any such copyright or other private proprietary interest to forbid any use thereof without the license or other permit of the owner. (Ord. 1554 § 1 (part) ; November 29, 1966).

Chapter 5.32

EXCAVATING INDIAN MIDDENS²

Sections:

- 5.32.010 Purpose of chapter.
- 5.32.020 Permit required to excavate.
- 5.32.030 Liaison agency.
- 5.32.040 Application for permit.
- 5.32.050 Issuance.
- 5.32.060 Conditions for issuance.
- 5.32.070 Conformance to stated conditions required.
- 5.32.080 Exemptions.
- 5.32.090 Violation a misdemeanor.

5.32.010 Purpose of chapter. In the county of Marin there exist certain deposits of shells and other materials in mounds hereinafter referred to as Indian middens, believed to have been deposited by Indians in the distant past. The middens may be of inestimable value in formulating the early history of the county and the habits of Indians when the middens are studied under the supervision of qualified archeologists. Uncontrolled excavations into the aforeseaid middens for commercial purposes without regard to their possible historical and archeological values are destructive of the archeological integrity of the sites. (Ord. 1589 § 1; June 20, 1967).

5.32.020 Permit required to excavate. It is unlawful for any person, firm, corporation or copartnership to knowingly disturb in any fashion whatsoever, or excavate, or cause to be disturbed or excavated any Indian midden without a permit being issued therefor by the department of public works. (Ord. 1589 § 1; June 20, 1967).

5.32.030 Liaison agency. Upon receiving written application therefor, the board of supervisors shall designate an institution of higher learning, or an association having as one of its major purposes the study of Indian relics or sites having archeological significance, as a liaison agency between the department of public works and institutions of higher learning or associations, having as one of their purposes of study of objects of archaeological significance. (Ord. 1589 § 3; June 20, 1967).

2. For regulation of shell mounds—See Chapter 10.05.

October 10, 1969

Stephen Kaufmann, Esq.
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Re: CATV Franchises

Dear Steve:

Pursuant to our recent telephone conversation on the subject, we have reviewed the provisions of Chapter 5.28 regarding licensing of CATV operators and franchising them within the County of Marin. It must be stated that your contention as to the ambiguity of the provision is somewhat correct. Under the provisions of Chapter 5.28, the right to conduct a CATV operation in a certain area, once approved for that area by the Board of Supervisors, would seem to be terminable by one of three methods under the ordinance.

At the outset it should be noted that there is no document called a "license" issued to a CATV operator. Section 5.28.320 provides that upon consideration of any application, "the Board may refuse to grant the requested license, or the Board may, by resolution, grant a license for a CATV system to any such applicant as may appear from said application to be, in its opinion, qualified to render proper and efficient CATV service to television viewers and subscribers in the proposed area. . . . If favorably considered, the application submitted shall constitute in form part of the license as granted." Therefore it is clear that a resolution approving the operation of CATV services in certain areas constitutes a grant of a license. It would appear that Chapter 5.28 allows termination of such license by forfeiture (5.28.060), termination (5.28.170d), and for want of a better term, voidness (5.28.350).

Forfeitures. Section 5.28.060 provides: "Any neglect, failure or refusal to comply with any of the terms or conditions of this Chapter, including changes or additions thereto during the term of the license by a licensee, following 30 days notice thereof by the County, shall work a forfeiture thereof in addition to such other penalties and rights provided in this Chapter; and the Board may, after public hearing thereon, declare the license forfeited, and may exclude the licensee from further use or acts thereunder Under our interpretation of this Section, an order to

Stephen Kaufmann
Re: CATV

-2-

October 10, 1969

declare a forfeiture the County must notify the franchisee of a specific violation in his operations of a provision of the County Code. At the expiration of the 30 days, if the violation has not been corrected, the Board of Supervisors holds a hearing on the matter and may declare the license forfeit.

Termination. Section 5.28.170 provides that within 30 days after acceptance of the license, the licensee shall proceed with due diligence to obtain all necessary permits, etc. Sub-section (d) thereof provides that failure on the part of the licensee to commence and diligently pursue each of the requirements of Section 5.28.170 shall be grounds for termination of such license. The Board has the right to extend the time for commencement and completion of such construction and installation. It would appear that under the termination provision of 5.28.170, the Board must also have a hearing in the event it is alleged that the requirements are not being met within the time set. It is arguable by a franchisee that he is entitled to an additional 30 days to whatever limitations are provided in 5.28.170 in order that he get notice before his license may be declared terminated under Sub-Section (d).

License Void. Section 5.28.350 provides: "No license granted pursuant to the provisions of this Chapter shall become effective unless and until all things required by Chapter 5.28 are found and completed, all such things hereby declared to be conditions precedent to the effectiveness of any such license granted hereunder." It is possible to construe Section 5.28.350, and indeed that would seem to be its intent, as requiring every step contained in its provisions to meet compliance before the license becomes effective. If the license is not effective, the Board of Supervisors can presumably grant a franchise to anyone, or say that the particular franchisee was in fact not licensed as a franchisee. If this argument is correct, then the provisions of Section 5.28.060 regarding forfeitures would apply only if there had been some compliance. Section 5.28.350 is also subject to the interpretation that once the Board of Supervisors had adopted the resolution under Section 5.28.320 there could be no other way the franchisee could lose his rights save by the forfeiture provision of Section 5.28.060.

In any event, there is a requirement, no matter which of the theories is followed, that a showing be made of a violation of a particular section of 5.28. With the exception of Section 5.28.170, this office is aware of no uncorrected violation of Chapter 5.28. It would be my preliminary opinion that the only procedure not subject to serious legal or constitutional questions which would be available to the Board of Supervisors to terminate a franchisee's rights would be under Section 5.28.060 or 5.28.170(d). Both require Board of Supervisors hearings, and both require proof of violation.